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December 5, 2012

Via Electronic Mail

Steven G. Sklaver, Esq.
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1901 Avenue of the Stars
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Re: *Fleisher, et al. v. Phoenix Life Insurance Company,*
No. 11-cv-8405 (CM) (JCF) (S.D.N.Y.)

Dear Steven:

As you are aware from our recent and ongoing discussion, Phoenix's position is that documents concerning its engagement of Towers Watson are privileged and/or protected as attorney work-product. The purpose of this letter is to share with you the basis for Phoenix's position by enclosing, as you requested, a privilege log and a copy of the engagement letter, as well as by providing a brief narrative of the pertinent factual circumstances surrounding the creation of the Towers documents.¹ Notwithstanding your filing of a motion to compel Towers Watson to produce documents without the benefit of these facts when the parties were not at an impasse with respect to documents concerning the Towers Watson engagement and Phoenix was in the process of preparing the enclosed privilege log, Phoenix remains willing to meet and confer with plaintiffs to resolve the dispute over this issue.

Beginning in July 2009, the Company created a working group in connection with its contemplated cost of insurance rate increase. [REDACTED]

¹ You agreed in our telephone conference on December 3, 2012 that Phoenix's provision of a copy of the engagement letter and discussion of such background information is without waiver of its right to claim privilege and/or work-product protection over any and all information and documents relating to its engagement of Towers Watson, which right is hereby expressly reserved.

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[REDACTED]

To say that the Company's engagement of Towers Watson was "to provide additional actuarial support for a business decision," as your clients erroneously state in the opening memorandum in support of their motion to compel, is inaccurate. Towers Watson was retained [REDACTED]

As such, all documents pertaining to the Company's engagement of Towers Watson are work-product, and in some cases contain or reflect privileged communications that would provide an additional, independent basis for withholding or redaction.

Set forth below is a log listing documents in Towers Watson's custody that are subject to the protection of the work product doctrine, some of which contain or reflect privileged communications. Consistent with Local Rule 26.2(c), we list categories of documents sharing the same basis for privilege and/or work-product protection in lieu of listing each document individually.

Category	Date Range	Signatory / Author / Preparer	Addressee(s) / Recipients	Document Type(s)	Description and Subject Matter
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[illegible]

